COURT NO.2

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ petition No. 2768 (S/S) of 2001

(Old Case No. 8293 of 1996)

Badan Singh, son of Sri Pratap Singh, resident of Village Nagla Bhaja, P.O. Mahuwa Khera, District Etah.

.....Petitioner

Versus

1. Upper Nideshak Samaj Kalyan, Uttaranchal Camp, 6 E/A Rest Camp Tyagi Road, District Dehradun.
2. Pariyojana Nideshak/ Samaj Kalyan Adhikari, Durga Bhawan Kaladhungi Road, Haldwani, District Nainital.
3. Sri Sharawan Kumar, Pariyojana Nideshak, Janjati, Prayojana Pradhikaran, District Dehradun.

.....Respondents

None appeared on behalf of the petitioner
Learned Standing Counsel for the respondents

Dated: 26.11.2007

Hon'ble P.C. Verma, J.

Petitioner has filed this writ petition for the following releifs:-

"i) a writ, order or direction in the nature of mandamus commanding the respondents not to interfere in the functioning of the petitioner as Peon in the office of Pariyojana Nideshak, Janjati, Prayojana Pradhikaran Dehradun and to pay the salary to the petitioner regularly every month as and when it falls due including the arrears of salary for the month of November, December 1995 and January 1996 within a period to be specified by this Hon'ble Court.

ii) a writ, order or direction of a suitable nature call for the record of the case and in case any such order no. 271 dated 31.12.95 has been passed by the respondent no. 1 same be quashed.

iii) any other writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case.

iv) award costs of the writ petition to the petitioner."

2. The petitioner has made the aforesaid prayer on the basis of statement as stated in the writ petition.

3. The petition has not been admitted so far. Today, when the case called out, Sri Sharad Sharma, learned counsel for the petitioner is not present despite the fact that this name has been shown in the cause list.

4. The assertion of the petitioner is that he was appointed on Class IV post in the office of respondent no. 1 after resignation of Sri Suleman Khan on 21.09.1994 and accordingly, the petitioner was appointed against the said post vide order dated 31.01.1995, the appointment letter is contained in Annexure- 2 to the writ petition.

5. A perusal of the appointment letter reveals that the petitioner was appointed temporarily until further orders and the appointment was terminable at any time without notice. It has been further asserted that the petitioner was transferred to Rajkiya Ashram Paddhati Vidyalaya, Tuni, Dehradun vide order dated 15.11.1995 and the petitioner was required to join by 18.11.1995. It has been further asserted that the petitioner suddenly fell ill and moved leave application dated 15.12.1995. The petitioner could come to know about the transfer order only on 30.12.01995 and accordingly the petitioner submitted his jointing report on 01.01.1996. A categorical statement has been made

in para 8 of the writ petition that the petitioner had worked and attended the office of respondent no.1 regularly till 17.01.1996. The statement made in para- 8 and para-6 runs counter to each other and either of the fact stated in the writ petition is apparently false. The statement made by the petitioner that the he was and had been regularly attending the office is not believable.

6. It appears that the service of the petitioner has been terminated on 31.12.1995 which is clearly deciphered from the statement made in para-21 of the writ petition, though the petitioner has not stated fairly that his services has been terminated. But the termination is not disputed since the appointment itself was conditional that the appointment was till further orders and was liable to be terminated at any time. Therefore, termination order dated 31.12.1995 is in accordance with the conditions contained in the appointment letter and therefore no interference is called for.

7. The petition is devoid of merit and is dismissed in limine. No order as to costs.

(P.C. Verma, J.)

26.11.2007
RBS